

WISHA REGIONAL DIRECTIVE

WISHA Services

Department of Labor and Industries

2.12

COORDINATING WISHA ENFORCEMENT & CONSULTATION

Date: May 2, 2001

I. Background

In order to ensure the best use of WISHA resources, WISHA consultation and enforcement staff target both inspection activities and the marketing of consultation activities. As part of this effort to effectively promote worker health and safety and to use limited WISHA staff resources wisely, WISHA is committed to close coordination between enforcement and consultation targeting efforts.

II. Scope and Application

This WISHA Regional Directive (WRD) replaces and rescinds WISHA Interim Operations Memorandum #98-6-B. It provides guidance to WISHA staff regarding the coordination of programmed inspections and targeted consultations and will remain in effect indefinitely.

III. Special Compliance and Consultation Protocols

A. How should WISHA enforcement and consultation staff coordinate their job-site intervention activities?

Before assigning inspections or consultations from existing SHIMS targeting lists, WISHA consultation and enforcement supervisors within the region must meet with one another (and with risk management supervisors) at least monthly to coordinate their activities, unless other arrangements provide sufficient coordination to prevent any confusion and/or conflict and therefore make such monthly meetings unnecessary.

1. Regional consultation and enforcement activities are expected to focus on the employers on the top of each list, working down the list from the highest to the lowest (aside from obvious exceptions due to geographic and similar concerns; see WRD 2.10 for guidance on assigning lower priority to otherwise targeted employers).
2. Regions are encouraged to use any rational (non-random) approach to determine which employers should be temporarily set aside by compliance in order to allow

consultation staff to market their services. Factors that should be taken into consideration include indicators of “good faith” in any past dealings with the employer, whether the employer has received WISHA attention in the past, whether the employer’s loss history suggests that violations of applicable standards may be difficult to document, loss trends and any relationship to past enforcement or consultation activities, etc.

For example: Regional WISHA staff might agree that Consultation should focus on employers in a particular SIC, or of a particular size, or likely to face particular hazards, or that have not previously had contact with WISHA enforcement or consultation staff, etc. It would not be appropriate, however, to simply focus Consultation marketing efforts on “every fifth employer” or other essentially random distinctions.

3. In order to assist in coordination efforts and to help determine appropriate ways to identify Consultation candidates, staff from WISHA P&TS are available to attend regional meetings at the request of the region.

B. How long can programmed inspections be delayed to allow consultation marketing?

If WISHA enforcement and consultation staff agree that a particular employer (or type of employer) will be encouraged to take advantage of consultation services, that employer will not be scheduled for inspection for at least 30 days. WISHA enforcement staff will continue their work, focusing on the remainder of the employers on the list.

1. If the employer agrees to a consultation, no inspection will be scheduled for an additional 30 days in order to allow the consultation to begin; after Consultation’s initial visit, the employer will be assigned a lower priority and not immediately scheduled for inspection (supervisors may wish to use the “exclusion” feature, which removes the employer from that supervisor’s view, although not actually from the list as a whole, to reflect this lower priority).
2. If the employer has not agreed to a consultation, but the consultation supervisor still believes that such a request is possible, compliance supervisors may delay any enforcement activity an additional 30 days. The reason for any such additional delay should be documented by the region in some fashion (meeting minutes, interoffice memorandum, etc.).
3. If the employer does not agree to a consultation within 30 days (or within 60 days if the provisions of “b” above are implemented), the employer is subject to enforcement activity and should be scheduled for inspection based on his or her ranking on the list.

Note: The combined effect of the above provisions is to allow a delay in enforcement activity of no more than 90 days before either a consultation has actually begun or the employer is subject to an enforcement visit.

C. How should statewide or multi-region employers be handled?

Regional supervisors are expected to coordinate both enforcement and consultation activity related to statewide employers with other affected regions.

Approved: _____

Michael Wood

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For further information about this or other WISHA Regional Directives, you may contact WISHA Policy & Technical Services at P.O. Box 44648, Olympia, WA 98504-4648 -- or by telephone at (360)902-5503. You also may review policy information on the WISHA Website (<http://www.wa.gov/lni/wisha>).